

CALIFORNIA COASTAL COMMISSION

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Wed 9d

Staff: EL-SD
Staff Report: September 23, 2005
Hearing Date: October 12-14, 2005

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: A-6-DMR-04-024-A1

Applicant: City of Del Mar

Agent: Adam Birnbaum

Original Description: Installation of two "pay and display" parking machines and associated signage at an informal, approximately 50 space, public parking area and ongoing regulation of parking through the use of such machines.

Proposed Amendment: To remove Special Condition #3 in its entirety, to allow the pay and display meters to remain permanently.

Site: West side of Camino del Mar, just north of the Camino del Mar/Carmel Valley Road intersection, Del Mar, San Diego County

Substantive File Documents: Certified City of Del Mar LCP

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the amendment request to delete Special Condition #3, but only as modified by the attached special conditions which impose a new condition similar to the old Special Condition #3. Information submitted by project opponents suggests installation of the meters last year has resulted in a significant diminished use of this area by the public. It is because it was not known what impacts installation and implementation of the pay meters would have on public use of this area, that the Commission only granted approval for the meters to remain for a one year period initially. Even though the Commission did not specifically require the City to monitor use of the meters during the one year period, the fact that the City did not do any such monitoring means that it has no empirical data to refute the opponents claims that public use of this area has greatly diminished since installation of the pay meters. Rather than deny the permit amendment altogether, staff recommends approving the paid parking program for an additional year and requiring a comprehensive monitoring study to identify any ongoing impacts and suggest solutions.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-DMR-04-024-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit amendment for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified City of Del Mar LCP and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. **Special Conditions.**

The permit amendment is subject to the following special conditions:

The following special condition shall be added as a new special condition.

1. **Parking Monitoring Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit for review and written approval of the Executive Director, a parking monitoring program which shall, at a minimum, incorporate the following:

- a. Monitoring shall be conducted throughout the one-year term that the permit amendment authorizes the operation of the meters.
- b. Monitoring shall occur along:
 - the west side of Camino del Mar in the area regulated by the Pay and Display machines;
 - Carmel Valley Road from Camino del Mar to the Del Mar/San Diego boundary;
 - Stratford Court, south of Spinnaker Court;
 - Ocean View Avenue west of Nob Avenue; and
 - Nob Avenue south of Cordero Road..

c. Monitoring shall occur on:

- one Saturday and one Sunday each month from October, 2005 until Memorial Day weekend, 2006; and
- every Saturday, Sunday and holiday between Memorial Day weekend and Labor Day.

d. Monitoring shall consist of:

- parking counts taken at the approximate hours of 10:00 a.m., 1:00 p.m. and 4:00 p.m. on every monitored day;
- recordation of temperature, weather and surf conditions during each count;
- documentation of both actual car counts and percentage of occupancy, assuming 50 available parking spaces; and
- documentation of turnover rates.

Documentation of all monitoring through August 15, 2006 shall be submitted with any application to extend the authorization beyond one year. Documentation of monitoring conducted between August 15 and Labor Day shall be submitted no later than September 12, 2006.

The permittee shall undertake monitoring in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the plan shall occur without a Coastal Commission approved amendment to this amended coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Limited Term Authorization. **This condition replaces Special Condition #3 of the original permit.** The amended permit shall authorize the operation of the meters for one year from the date of Commission action unless modified by the Coastal Commission. No additional time shall be permitted without an analysis of the required monitoring data and a status report on the re-opening of the northern access way to Torrey Pines State Beach.

3. Prior Conditions of Approval. All prior conditions of approval of the original permit not specifically revised herein shall remain in full force and effect of this amendment.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The City of Del Mar is requesting an amendment to an approved coastal development permit (CDP) that authorized installation of two "pay and display" machines. The original approval included conditions establishing parameters for the operation of the machines, requiring mitigation through installation of free public access and recreation amenities, and limiting the meters to a

trial period of one year. The conditions also allowed submittal of a future amendment request to continue operation of the meters beyond that time. The machines serve an approximately 1,700 foot-long area where free informal parking previously occurred. The area is on the west side of Camino del Mar (within the public right-of-way), just north of the intersection with Carmel Valley Road, and consists of an open, unvegetated strip separated from the paved road by a curb. Vehicles have historically parked within this strip between the intermittent roadside trees to access an unimproved dirt trail leading down the bluff to the beach, or to enjoy the panoramic views available in this location along the bluff top. The “pay and display” machines are similar to parking meters in appearance, although significantly larger. Each machine serves 25-30 cars; when fed with money, they produce a ticket to be displayed on the vehicle’s dashboard.

The paid parking machines are within the City of Del Mar’s CDP jurisdiction, and the City, after a local appeal, issued itself a coastal development permit in March, 2004. The project site is at the southern end of Del Mar, and is located between the first public road (Camino del Mar) and the sea, within the area appealable to the Commission. Appeals were filed in the San Diego Coastal Commission office, both by outside interested parties and by the Commission. The Commission first found the appeals to raise a substantial issue, then granted the permit as described above. The legal standard of review for that permit, and the subject amendment request, is consistency with both the City of Del Mar certified LCP and the Chapter 3 access and recreation policies of the Coastal Act.

The subject amendment proposes to remove Special Condition #3, which imposed a one-year term for the parking machines. The time limitation was intended to allow the City an opportunity to install required mitigation measures and to assess the impact of the parking fees on beach usage in this area. The required bicycle rack and two viewing benches have been installed, but the City has not conducted any formal assessment of impacts. While there was no specific requirement imposed by the original permit, it was suggested that the City do some formal monitoring of the meter operation during the one-year trial period so that the City could present the results to the Commission with any request to extend or make permanent use of the meters in this area. The former appellants did do some monitoring during the period when the meters were in operation; that information is provided as Exhibit #3. Other submitted complaints that were received are attached as Exhibit #4.

2. Public Access and Recreation. Because this site is between the first public road (Camino del Mar) and the sea, both the certified LCP and the public access and recreation policies of the Coastal Act are standards of review. The original permit report included portions of four LCP policies and four Coastal Act policies addressing access; the same policies also apply to the subject amendment request and are re-stated below:

Goal IV-A

Provide physical and visual access to coastal recreation areas for all segments of the population

Goal IV-A, IV-9

Improved vertical access ways to the beach and trailhead areas shall include appropriate support facilities such as trash receptacles and bicycle racks as determined necessary.

Goal IV-B, Policy IV-17

The City shall continue to encourage the use of bicycles for transportation to coastal recreation areas. The City shall also promote the installation of bicycle racks at intermittent locations along the beach and lagoon areas as well as the following locations: ... along Camino del Mar in the vicinity of Carmel Valley Road.

Goal IV-C, Policy IV-22

Enhance public improvements along appropriate bluff top areas which provide significant scenic vistas when such improvements are not in conflict with bluff preservation policies. Improvements shall include the installation of benches for scenic viewing ... along the upper bluff area south of Del Mar Canyon,

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The subject site is a popular parking spot for surfers, joggers, and general beach users, as it provides access to the northern portion of Torrey Pines State Beach. Beach access from the bluff top parking area is gained via an informal and unimproved, rocky, narrow, dirt trail, but the condition of the trail limits use to the healthy and sure-footed. The area is isolated from both the main part of Del Mar to the north (Village and municipal beaches) and the Torrey Pines State Beach facilities located south of the Los Penasquitos Lagoon mouth. Prior to approval of the original permit, it provided the only free means to access this section of Torrey Pines State Beach, which extends north to 8th Street and there becomes City of Del Mar beach. Implementation of parking fees raises a concern as to public access in that such a fee may affect use of this area by the general public.

The primary reason the original permit was limited to one year, was to provide an opportunity to assess any such impacts. The Commission has typically required access modifications such as imposition of fees and changes to the hours of operation to undergo a "trial period" to assure that overall impacts on the beach-going public, and surrounding public streets, are minimized to the extent possible or otherwise mitigated. Special Condition #3 of the original permit limited the meters to a term of one year only to provide the Commission an opportunity to review the paid parking program once again and assess any unforeseen impacts. A trial period allows the operation to proceed for a long enough period that any unexpected yet significant problems should surface and may be addressed in future Commission actions.

Opponents, including the former appellants and others, have submitted both general complaints about the concept of paid parking in this area, and specific narrative and photographic evidence of low usage during the time the meters were in operation. The opponents recorded dates, times, temperatures, and surf conditions for the Saturdays and Sundays from early March through mid-May, 2005, and calculated the number and percentage of vehicles using the parking area, based on the assumption that the area will hold approximately 50 vehicles. This evidence, however, was all gathered outside the summer months and no "before meter" baseline information was offered for purposes of comparison. Moreover, the evidence presented by the opponents shows that only three days of their study had temperatures into the 70's. The City's response is that low beach usage is the norm at that time of year, but has provided no empirical data to support that position. No documentation has been presented by either the City or the opponents addressing public usage during the summer months.

The former appellants also maintain that people are parking in other nearby areas to avoid the fees, and that "surrounding neighborhoods are suffering the consequence" (letter from Rick Beatty and Chris Miller, dated June 8, 2005, attached as Exhibit #3). No specific streets were identified in the letter, nor was any other information provided. The City has responded (Exhibit #2) that this is not likely the case, since access to the nearest surrounding streets requires driving nearly a mile away, and then also walking a considerable distance back to the beach. However, no specific data has been presented by the City to counter this charge.

It is possible that some people who previously parked at the subject site have relocated to the North Torrey Pines State Beach parking lot. This is also a paid facility, but applies a daily rate instead of an hourly one. People planning long stays at the beach would probably find this parking lot more economical. Generally speaking, there is more than enough availability in this parking lot to accommodate anyone who is displaced from the subject Camino del Mar location. However, on holidays and holiday weekends, the state beach parking lot fills up and overflows, so conflicts could occur in trying to add even one more car to the lot. Moreover, this parking lot provides access to a different segment of Torrey Pines State Beach, that already experiences greater attendance than the beach below the subject site.

In any event, the Commission has, on several past occasions, supported the right of a local government to collect fees for services rendered. There are few areas of the urbanized California coastline that do not have some form of parking fee or program, and these fees are generally driven by the public safety and upkeep costs of maintaining public beaches. The Commission's main concern in regard to such programs is that the operating parameters be reasonable and in the best interest of the public at large. A secondary concern is the "spillover" affect that may occur as people move to other areas that do not have a fee or charge less. The original permit was conditioned to include such operational parameters as set fees and hours of operation, and these cannot be modified without Commission approval. The City's applied fees are comparable to those charged at similar facilities, such as state beaches, and the time limits consider the longer stays of recreational users.

Nonetheless the opponents make a case that people are not using the area and the City has not performed monitoring to refute this issue. Because the opponents' data provides no baseline, and neither the opponents nor the applicant monitored during the critical summer season, the Commission finds it cannot approve the City's request to allow the meters to remain on a permanent basis as submitted. Therefore, Special Condition #1 of this amendment requires the City to develop a formal monitoring program to assess the impacts identified by project opponents. The City's program must document the same types of conditions the opponent's study reported, but the most intense monitoring must occur during the summer season. It is then that beach access is in greatest demand, and impediments to access, such as parking fees, are most significant. The condition establishes only minimal standards for the monitoring, and the City may add any other components that would provide accurate information for future Commission review and that do not conflict with the framework required in the condition.

A secondary reason for the one-year time limit was to give the City time to install mitigation amenities in the form of a bicycle rack and viewing benches. The Commission found provision of these new amenities necessary to offset imposition of the proposed parking fees, but it was clear at the time of Commission action that the viewing benches would be cost-prohibitive to the City if disabled access were required. The one-year period allowed the City to investigate this issue, complete what mitigation it could, and propose some alternative access or recreational amenity if the benches could not be installed.

It has only recently been determined that installation of the benches will not require full accessibility improvements. The site is a natural, unimproved bluff top with uneven terrain, and the existing parking area, that consists of a strip of land within the right-of-way of Camino del Mar, is also uneven and unpaved, as well as being separated from the vehicle lanes by a curb. The City plans to maintain the natural character of the area and has no desire to provide paving, restrooms, grassy areas or any other typical form of park improvements. A significant amount of landform alteration, as well as significant paving, would be required to improve the bluff top to the point where it would be safe for use by all segments of the population. We are informed that the Americans with Disabilities Act (ADA) and Title 24 of the California Code of Regulations recognize the value of leaving some areas in their natural state; thus these laws only require developed parks to provide fully accessible facilities. Now that this issue has been resolved, the benches have been installed. The bicycle rack raised no issues and was installed many months ago.

With the three conditions identified herein, adverse impacts on beach access at the subject site can be accurately monitored by the City and addressed by the Commission. Amendment Special Condition #2, replacing Special Condition #3 of the underlying permit, again limits the authorization to one year to provide an opportunity for that review. Amendment Special Condition #3 makes it clear that all conditions of the original permit not changed or replaced herein remain in full force and effect. With these conditions, the Commission finds the proposed program consistent with the cited access policies of the certified LCP and Coastal Act.

3. Local Coastal Planning. The proposed paid parking program does not change the location, or amount, of public parking in the vicinity, but may change the intensity of use of access to the beach in this location if people want to avoid paying parking fees. The site is designated as public parkland in the LUP and zoned the same in the City's implementation component. The ongoing use is fully consistent with a parkland designation, as the parking facilities support the adjacent bluff top open space and nearby beach. Previous findings have also demonstrated that the proposal, as conditioned, is consistent with the certified LCP and the access and recreation policies of the Coastal Act. Therefore, the Commission finds that approval of the proposal, as conditioned herein, will not prejudice the ability of the city to continue to implement its fully certified LCP.